

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date: DEC 11 1961

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] under the laws of the State of [REDACTED]. Your purpose per your Certificate of Incorporation is the operation of a parking facility for public purposes in downtown [REDACTED].

Your organization is licensed by the City of [REDACTED] to operate a parking facility in the downtown area at the lowest possible cost to encourage and support business in the area. Your prices for parking are as follows; \$. [REDACTED] per hour; \$ [REDACTED] per day and \$ [REDACTED] per month.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b)(1)(iii) states that an organization is not organized exclusively for one or more exempt purposes if its articles empower it to carry on activities which are not in furtherance of one or more exempt purposes. Thus, it states, an organization empowered by its articles to "engage in a manufacturing business" does not meet the organizational test of Code section 501(c)(3).

Section 1.501(c)(3)-1(e)(1) of the Regulations states that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities if the operation of such trade or business is in furtherance of the organization's exempt purpose and if the organization is not organized and operated for the primary purpose of carrying on a trade or business.

Revenue Ruling 80-116, 1981-1 C.B. 333 describes an organization which maintains free off-street parking in a city's downtown business district thereby relieving congested parking conditions. The organization receives income from contributions and membership dues. This organization was granted exemption under section 501(c)(4) of the Code since it provided free parking to all and it was not carrying on a business with the general public in a manner similar to organizations which are operated for profit.

On the basis of the evidence presented, we hold that [REDACTED] is not organized and operating exclusively for charitable purposes within the meaning of Code section 501(c)(3). Your organization is operating a parking lot in a commercial manner--fees are charged and per your budgets, a net profit is expected yearly. In this way [REDACTED] differs from the organization granted section 501(c)(4) exemption in Revenue Ruling 81-116. Your organization is carrying on a business with the general public in a manner similar to for-profit corporations and this is your organization's primary purpose.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.


If you do not agree with this determination you may protest in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,


District Director

Enclosure: Publication 892